IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7398 OF 2007

Vikramsiknghh Mohansingh Butola
Prop. Of M/s.Ajanta Restaurant..... ....Petitioner
V/s
The State of Maharashtra & Ors..... ....Respondents.

Mr.P.C.Kansara i/by M/s.Kansara & Thanekar, Adv. For the petitioner.

Mr.S.K.Chincholikar, AGP For the respondents.

CORAM: A.P.DESHPANDE, J.
9/10/07

PC:

Rule. Rule made returnable forthwith.

Taken up for final hearing by consent of both the parties.

The petitioner carries on business of restaurant and bar and was possessing a license which was renewed upto 31.3.05. The petitioner moved an application for renewal of the license for the period 2005-06, 2006-07 and 2007-08. The respondent No.3 issued show cause notice calling upon the petitioner to explain as to why an order should not be passed suspending the license for a period of 30 days. The petitioner replied to show cause notice and having found the reply to be not satisfactory the respondent No.3 passed an order suspending the police license of the petitioner for a period of 30 days. By the very same order the petitioner was informed that the petitioner can file an appeal before the State Government within 30 days from the date of receipt of the order. The petitioner was further given an option either to accept the order or to file an appeal within stipulated period and the option is to be intimated to the local police station one day in advance. It is the case of the petitioner that the order passed by respondent No.3 suspending the

license dated 28.8.07 was served on the petitioner on 2.9.07. The petitioner filed an appeal before the State Government on 17.9.07. The grievance is that though the period of more than 15 days has lapsed the State Government has not heard the petitioner on the stay application. On account of expiry of period of 30 days for filing an appeal the order of suspension of the license passed by respondent No.3 has come into operation from 2.10.07. Learned counsel for the petitioner has submitted that the statute provides a remedy by way of an appeal but on account of inaction on the part of respondent No.1 the appellate remedy has become nugatory and inefficacious. The very fact that the order of suspension of license operates after expiry of one month it is expected of the appellate authority to pass appropriate orders on the stay application before expiry of period of 30 days.

2. Learned additional government pleader appearing for the State Government has submitted that if so directed the stay application shall be decided within a period of four weeks from today. Various orders are annexed to the writ petition passed by various benches of this Court where under in identical circumstances order of suspension of license has been stayed while directing the State Government to decide the stay application or the appeal. One of the said order is passed in writ petition No.4393 of 2003 dated 21.7.03. In the result writ petition is partly allowed. I direct respondent No.1 to decide the stay application filed by the petitioner filed along with memo of appeal within a period of four weeks from today. Till the State Government passes appropriate orders on the stay application the impugned order passed by respondent No.3 dated 28.8.07 suspending police license of the petitioner for a period of 30 days shall remain stayed. Rule made absolute in above terms.